

Summary

The theme of the thesis: „The matter of the restitution of the church property after 1989”, has been chosen due to the interesting public debate about this topic, which is very interesting, topical, sharp and clearly very controversial. The importance of the issue adds its development, while there are still continually opened new aspects and perspectives of this topic.

The topic is significant by ambivalence of opinions, basically a certain helplessness and by the sharp clashes of the different opinions of the professional community. The cause is very simple. It is a problem with very complex historical and legal background. The diploma thesis attempts to uncover the background of the preparation of the restitution process and of the separation of the church and state after the 1989 including their historical background and important constitutional aspects. My goal was to describe a path which led to the enactment of the law about the property settlement with the churches and religious societies in 2012. The intention of this paper is not to cover all aspects of this topic, after all that is impossible in frame of one diploma thesis, but it should provide the reader a formally complex material which clarifies the causes and consequences of the enactment of the Act no. 428/2012 coll., about the property settlement with the churches and religious societies including its European and constitutional aspects.

I had defined 6 goals: to prove through the historical analysis that the public supervision above churches was an universal idea which was applied in the Czech countries till the 1990 and which the state has began to abandon after 1989; describe the causes of historical events which led to the enactment of the Act no. 428/2012 coll., about the property settlement with the churches and religious societies; evaluate if the accepted solution could be denominated as a restitution in the context of the previous restitution legislature, judicial decisions of domestic courts and European Court of Human Rights and from the perspective of legal doctrine. The aim is also, on the basis of summarized and analyzed information, to evaluate the accordance of the Act no. 428/2012 coll., about the property settlement with the churches and religious societies with the Constitutional order of Czech Republic, principals on which the Czech legal order is based, laws of European Union and present it as a “second possible opinion” to the standpoints, which has been submitted by the Constitutional Court of Czech Republic or Commentary. Last task is to evaluate the stability of the accepted solution and from the perspective *de lege ferenda* to predict further possible development.

The thesis is divided into eight chapters. At first I focus on the explanation of basic terminology and institutes. Not only with regard to what they mean in the Czech legal doctrine and terminology, but also with regard to the context of internal church rules and hierarchy. Furthermore, the work describes the historical development of the relationship between the state / public power and the churches and religious societies. In the next chapter I describe the development of the judicial decisions of the Constitutional Court of Czech Republic in the case of church property. Furthermore I mention the detailed comparison of the first bill about the property settlement with the churches and religious societies (government of the prime minister Topolánek) with the later enacted Act no. 428/2012 coll. In the Annex 1 there is also available their graphical comparison. The core of this diploma thesis is a review of compliance of the Act no. 428/2012 coll., with the Constitution and the principles of the rule of law. Large part of this review is devoted to the evaluation of the compliance of the Act no. 428/2012 coll. with the international obligations which the Czech republic has as a member of the European union. At the end of this work is an analysis about possible changes of the adopted solution for the future. Text of this thesis is enriched by the large portion of the attachments and with analysis of the financial burden of the enacted solution for the public budgets. This thesis drew from a variety of sources, which were primarily professional publications of the leading former and current historians and constitutional lawyers. Some previously unpublished documents and analysis were used also as a source. As the additional sources were used also internet resources and news articles.